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## ARIZONA BOARD OF MEDICAL EXAMINERS

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### Certified Mail/Return Receipt Requested

Robert D. Castillo, M.D.  
Address of Record

Re: **LETTER OF REPRIMAND**  
W.R. and M.E.M. v. Robert Castillo, M.D.  
(Investigation No. 9976)  
C.G.A. (Pts.: C.G.; A. and L.A.) v. Robert Castillo, M.D.  
(Investigation No. 9391)  
K.R. (Pt.: J.D.R.) v. Robert Castillo, M.D.  
(Investigation No. 8765)  
B.H. and M.C. v. Robert Castillo, M.D.  
(Investigation No. 8039)

Dear Dr. Castillo:

On March 14, 1997, you appeared with your attorney, David K. Duncan, for an informal interview before the Board of Medical Examiners. Based upon the evidence and the information presented, the Board voted to resolve the complaints listed above by issuing a Letter of Reprimand to you.

A Letter of Reprimand is defined in A.R.S. §32-1401(15) as "a disciplinary letter issued by the Board that informs the physician that the physician's conduct violates state or federal law but does not require the Board to restrict the license or monitor the physician because the physician's conduct did not harm a patient or the public."

In voting to issue the Letter of Reprimand, the Board adopted the following Findings of Fact, Conclusions of Law, and Order:

### Findings of Fact

1. The Board of Medical Examiners of the State of Arizona is the duly constituted authority for the regulation and control of the practice of medicine in the State of Arizona.

2. Robert D. Castillo, M.D. is the holder of License No. 11036 for the practice of medicine in the State of Arizona.

**Patient C.A. (Investigation No. 9391)**

3. On September 11, 1995, the attorney for patient C.A. served a subpoena duces tecum on Dr. CASTILLO in the patient's divorce action. The subpoena requested that Dr. CASTILLO produce all medical records for C.A. and her children, A.A. and L.A. The return date of the subpoena was Monday, September 18, 1995. Dr. CASTILLO did not provide the records requested.

4. On Tuesday, September 19, 1995, the attorney's office sent a letter to Dr. CASTILLO confirming a telephone conversation of that date in which Dr. CASTILLO stated that he would provide all the records requested in the subpoena by Wednesday, September 20, 1995. He failed to provide the records.

5. On September 20, 1995, the attorney's secretary called Dr. CASTILLO's secretary and inquired when they would receive the records. Dr. CASTILLO's secretary stated that she had to get the records out of storage and that they would be provided by Monday, September 25, 1995. The records were not produced.

6. On September 27, 1995, the attorney sent yet another letter to Dr. CASTILLO requesting the medical records. On October 3, 1995, Dr. CASTILLO finally produced some, but not all, of the medical records. Dr. CASTILLO stated in his letter dated October 3, 1995, that he would provide "the rest of the records by Monday morning." The rest of the records were not produced.

7. On November 16, 1995, Board staff informed Dr. CASTILLO in writing that a complaint had been received regarding his failure to provide medical records for C.A. and her children. The letter requested that Dr. CASTILLO respond with a narrative statement and copies of his medical records within 15 days. Dr. CASTILLO failed to respond or provide records.

8. On December 18, 1995, Board staff again requested in writing that Dr. CASTILLO provide a narrative and records, this time within five days. Dr. CASTILLO responded by letter dated December 26, 1995 in which he stated that his therapeutic relationship with Mrs. A and her family dated back to 1981. Dr. CASTILLO enclosed copies of medical records that contained entries from 2-19-95 to 9-28-95. He also enclosed an affidavit dated September 1, 1995 to the court in the divorce proceeding that stated he had provided counseling to the family for "over ten years." Dr. CASTILLO indicated that the records for the additional ten or more years he had treated the patients had been "misfiled and lost", "disappeared", or "taken inadvertently or purposefully" by persons unknown. Dr. CASTILLO stated that in the middle of 1994 every room at the facility where he worked and kept his records "was ransacked and many things were stolen." The police department has no record of any report of break-in or theft at the facility.

9. The partial records provided by Dr. CASTILLO are largely illegible. They do not appear to state a diagnosis, justify treatment, or provide sufficient information for another practitioner to assume continuity of the patients' care.

10. Dr. CASTILLO gave patient C.A. a signed, undated prescription form that failed to list the patient's name or the medication prescribed. The patient kept the prescription and did not use it.

11. Dr. CASTILLO also gave patient C.A. a sample package of Effexor, an antidepressant, on which Dr. CASTILLO had written "one at 8 p.m." and the name of some other patient.

#### **Previous Action Regarding Patient C.A.**

12. The Board previously investigated Dr. CASTILLO's treatment of patient C.A. (BOMEX Inquiry (5-27-87) - Robert D. Castillo, M.D., Investigation No. 1397). In 1987, when the Board notified Dr. CASTILLO of an inquiry regarding his excessive prescribing of Preludin, Dr. CASTILLO failed to respond to three letters and a subpoena from the Board over an eight month period. He finally responded to a second subpoena with a letter indicating he was emotionally incapable of appearing for an investigational interview and would seek psychiatric treatment for himself. Dr. CASTILLO obtained psychiatric treatment and was diagnosed with bi-polar disorder, "which manifested itself in cycles of retarded depression alternating with periods of hypomania." On March 14, 1988, Dr. CASTILLO produced copies of C.A.'s medical records for 1987. On April 18, 1988, Dr. CASTILLO appeared before the Board for an informal interview and agreed to a Stipulation to Findings of Fact, Conclusions of Law and Order. He signed the Stipulation on February 6, 1989. The Order, which was issued February 10, 1989, required Dr. CASTILLO to:

- a. Remain under an approved psychiatrist's care until further order of the Board;
- b. Obtain approved continuing medical education (CME) in psychiatry;
- c. Submit to an oral competency examination in psychiatry.
- d. Appear before the Board upon request.

On January 17, 1990, the Order was amended to require the treating psychiatrist to provide written reports to the Board. Dr. CASTILLO took and passed the oral competency examination and completed the CME. The Stipulation and Order and Amended Order were terminated October 12, 1990.

**Patient J.R. (Investigation No. 8765)**

13. On April 3, 1995, the Board received a complaint from an attorney, alleging that Dr. CASTILLO failed to respond to a civil subpoena to produce the medical records of patient J.R. Dr. CASTILLO failed to respond to three letters from the Board requesting his written narrative and medical records. Eight months after the first request, Dr. CASTILLO appeared for an investigational interview on November 14, 1995 in response to a Board subpoena. When Board staff asked Dr. CASTILLO why he had not provided the records to the attorney, Dr. CASTILLO responded that the patient told him not to do so. He had no documentation to support his statement.

14. When a physician receives a civil subpoena for medical records such as the one Dr. CASTILLO received from the attorney, he is required by A.R.S. §12-2282 to either (a) deliver a copy of the records to the clerk of the court or the judge, or (b) file a written objection. He cannot simply ignore the subpoena as Dr. CASTILLO did. A.R.S. §12-2282(E).

15. When Board staff asked Dr. CASTILLO why he ignored the Board's three written requests for records and a written narrative, he responded "I can't really describe to you why I haven't done it. It has eluded me actually, but I can have the stuff here tomorrow." Staff informed Dr. CASTILLO that it was unprofessional conduct under the Medical Practice Act to fail to provide records. Dr. CASTILLO responded, "I'm guilty, obviously. I'm not sure exactly why, but I'll have the records here tomorrow." Dr. CASTILLO did not provide the records the following day, but did produce them five days later.

**Patients M.M. and W.M. (Investigation No. 9976)**

16. On June 14, 1996, the Board received a complaint from patients M.M. and W.M. stating that they had been unsuccessful for over two years in trying to obtain their medical records from Dr. CASTILLO. They needed the records for continuing medical care. On June 20, 1996 Board staff informed Dr. CASTILLO of the complaint and requested that he provide a written narrative and medical records within 15 days. Dr. CASTILLO did not respond. On August 8, 1996, Board staff again requested a narrative and records, this time within five days. Dr. CASTILLO did not respond.

17. On September 5, 1996, the Board issued a subpoena to Dr. CASTILLO commanding him to appear for an investigational interview and bring his records on September 18, 1996. The subpoena and a cover letter were mailed by certified mail to Dr. CASTILLO's residence address of record in Phoenix, Arizona. They were returned to the Board's office on September 22, 1996 as "unclaimed." Dr. CASTILLO did not appear for the investigational interview or otherwise respond.

18. At its October 1996 Board meeting, the Board voted to request that Dr. CASTILLO appear before the Board for an informal interview on January 22, 1997 at 2:45 p.m. at the Board's office. On November 25, 1996 Board staff sent Dr. CASTILLO a certified letter at his residence address of record in Phoenix, Arizona informing him of the Board's action. The letter was returned to the Board's office on December 19, 1996 as "unclaimed." On December 20, 1996, a Board investigator hand-delivered the letter to Dr. CASTILLO personally at his residence. The residence address was the same as listed on the two previous "unclaimed" letters.

19. The investigator informed Dr. CASTILLO that he was delivering a letter that required Dr. CASTILLO's appearance for an informal interview before the Board. Dr. CASTILLO inquired whether he really had to appear. The investigator told him he did have to appear.

#### **Patients B.M.H. and M.C. (Investigation No. 8039)**

20. From January to May 1994, patient M.B.H., a minor, was treated at a counseling center by Ronald Hilding, M.D. Dr. CASTILLO, who was medical director of the clinic, told Dr. Hilding that he (Hilding) was not yet approved as a provider for the Arizona Health Care Cost Containment System (AHCCCS). Dr. CASTILLO told Dr. Hilding that if Hilding wrote prescriptions for AHCCCS patients, AHCCCS would not pay, and the patients would be forced to pay out of their own pockets or do without the medication. Consequently, Dr. CASTILLO signed the blank prescription forms in advance for M.B.H. and other AHCCCS patients, and instructed Dr. Hilding to use them. Dr. Hilding used the pre-signed prescription forms.

#### **Previous Board Actions**

21. In addition to the Stipulation to Findings of Fact and Conclusions of Law and Order issued February 10, 1989, the Board has taken the following other actions regarding Dr. CASTILLO:

- a. Letter of Concern dated May 29, 1987 for failure to transmit patient records after receiving proper authorization and accepting payment.
- b. Letter of Concern dated January 25, 1989 for poor record-keeping and prescribing Preludin in excess of 30-day limit allowed by law.

#### **CONCLUSIONS OF LAW**

1. The Board of Medical Examiners of the State of Arizona possesses jurisdiction over the subject matter hereof and over ROBERT D. CASTILLO, M.D.

**CONCLUSIONS OF LAW**

1. The Board of Medical Examiners of the State of Arizona possesses jurisdiction over the subject matter hereof and over ROBERT D. CASTILLO, M.D.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. §32-1401(25)(e) (failing or refusing to maintain adequate records on a patient).

3. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. §32-1401(25)(dd) (failing to furnish information in a timely manner to the board or its investigators or representatives if legally requested by the board).

4. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. §32-1401(25)(ee) (failing to allow properly authorized board personnel on demand to examine and have access to documents, reports and records maintained by the physician that relate to his medical practice or medically related activities).

**Order**

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that Robert D. Castillo, M.D. be issued a Letter of Reprimand.

DATED this 14th day of March, 1997.

BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF ARIZONA



Mark R. Speicher  
Executive Director

MRS/jm

cc: Debra Hill, Esq.

BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF ARIZONA

In the Matter of )

**ROBERT D. CASTILLO, M.D.** )

**STIPULATION AND ORDER**

Holder of License No. **11036** )

For the Practice of Medicine )

In the State of Arizona. )

Re: W.R. and M.E.M. v. Robert Castillo, M.D. )

(Inv. #9976) )

C.G.A. (Pts. C.G.; A. and L.A.) v. Robert )

Castillo, M.D. (Inv. #9391) )

K.R. (Pt.: J.D.R.) v. Robert Castillo, M.D. )

(Inv. #8765) )

B.H. and M.C. v. Robert Castillo, M.D. )

(Inv. #8039) )

In confirmation of the voluntary agreement made between ROBERT CASTILLO, M.D. and the Arizona Board of Medical Examiners ("Board") at an Informal Interview on March 14, 1997;

IT IS HEREBY STIPULATED AND AGREED by and between ROBERT CASTILLO, M.D. holder of License No. 11036 and the Board, pursuant to A.R.S. §32-1451(G)(5), that the Board shall enter the accompanying Order. ROBERT CASTILLO, M.D. acknowledges that any violation of this Order constitutes unprofessional conduct within A.R.S. §32-1401(25)(r), and may result in disciplinary action pursuant to A.R.S. §32-1451.

BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF ARIZONA

  
MARK R. SPEICHER  
Executive Director

  
ROBERT CASTILLO, M.D.

Dated: April 28, 1997

Dated: 4-28-97

**ORDER**

IT IS HEREBY ORDERED that:

1. Within sixty (60) days of the date of this Order, ROBERT CASTILLO, M.D. shall submit to psychiatric and psychometric evaluations by evaluators designated by Board staff. The evaluators shall provide written evaluation reports to the Board. The Board shall pay the cost of the evaluations.

2. Within sixty (60) days of the date of this order, Dr. CASTILLO, at his own expense, shall engage the services of a practice management consultant approved by Board staff, regarding, without limitation, timely and appropriate response to requests for medical records and correspondence.

3. Within twelve (12) months of the date of this Order, Dr. CASTILLO shall obtain thirty (30) hours of continuing medical education in psychopharmacology. The hours shall be certified as Category I by an organization accredited by the Accreditation Council on Continuing Medical Education, shall be approved by Board staff, and shall be in addition to the hours required by law for annual renewal of medical license.

DATED this 14th day of March, 1997.

BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF ARIZONA

[SEAL]

By



MARK R. SPEICHER

Executive Director

ELAINE HUGUNIN

Deputy Director

\* \* \*  
\* \* \*



ORIGINAL of the foregoing Stipulation  
and Order mailed by Certified Mail  
for signature this 10th day of  
April, 1997 to:

Robert Castillo, M.D.  
Address of Record

COPY of the foregoing signed  
Stipulation and Order mailed  
by Certified Mail this 28th day  
of April, 1997 to:

Robert Castillo, M.D.  
Address of Record

COPY of the foregoing unsigned  
Stipulation and Order mailed this  
10th day of April, 1997  
to:

Debra Hill, Esq.  
Osborn Maledon, P.A.  
2929 N. Central, Suite 2100  
P.O. Box 36379  
Phoenix, Arizona 85067-6379

COPY of the foregoing signed  
Stipulation and Order mailed this  
28th day of April, 1997  
to:

Debra Hill, Esq.  
Osborn Maledon, P.A.  
2929 N. Central, Suite 2100  
P.O. Box 36379  
Phoenix, Arizona 85067-6379

  
Secretary

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